

§ 1.432

given one month within which to pay the deficient fees plus the late payment fee. Subject to paragraph (c)(2) of this section, the late payment fee will be equal to the greater of:

(i) Fifty percent of the amount of the deficient fees; or

(ii) An amount equal to the transmittal fee;

(2) The late payment fee shall not exceed an amount equal to fifty percent of the international filing fee not taking into account any fee for each sheet of the international application in excess of thirty sheets (PCT Rule 16*bis*).

(3) The one-month time limit set pursuant to paragraph (c) of this section to pay deficient fees may not be extended.

(d) If the payment needed to cover the transmittal fee, the international filing fee, the search fee, and the late payment fee pursuant to paragraph (c) of this section is not timely made in accordance with PCT Rule 16*bis*.1(e), the Receiving Office will declare the international application withdrawn under PCT Article 14(3)(a).

[43 FR 20466, May 11, 1978, as amended at 50 FR 9383, Mar. 7, 1985; 52 FR 20047, May 28, 1987; 58 FR 4344, Jan. 14, 1993; 63 FR 29618, June 1, 1998; 68 FR 59887, Oct. 20, 2003; 68 FR 67805, Dec. 4, 2003]

§ 1.432 Designation of States by filing an international application.

The filing of an international application request shall constitute:

(a) The designation of all Contracting States that are bound by the Treaty on the international filing date;

(b) An indication that the international application is, in respect of each designated State to which PCT Article 43 or 44 applies, for the grant of every kind of protection which is available by way of the designation of that State; and

(c) An indication that the international application is, in respect of each designated State to which PCT Article 45(1) applies, for the grant of a regional patent and also, unless PCT Article 45(2) applies, a national patent.

[68 FR 59887, Oct. 20, 2003]

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§ 1.433 Physical requirements of international application.

(a) The international application and each of the documents that may be referred to in the check list of the Request (PCT Rule 3.3(a)(ii)) shall be filed in one copy only.

(b) All sheets of the international application must be on A4 size paper (21.0×29.7 cm.).

(c) Other physical requirements for international applications are set forth in PCT Rule 11 and sections 201–207 of the Administrative Instructions.

§ 1.434 The request.

(a) The request shall be made on a standardized form (PCT Rules 3 and 4). Copies of printed Request forms are available from the United States Patent and Trademark Office. Letters requesting printed forms should be marked “Mail Stop PCT.”

(b) The Check List portion of the Request form should indicate each document accompanying the international application on filing.

(c) All information, for example, addresses, names of States and dates, shall be indicated in the Request as required by PCT Rule 4 and Administrative Instructions 110 and 201.

(d) For the purposes of the designation of the United States of America, an international application shall include:

(1) The name of the inventor; and

(2) A reference to any prior-filed national application or international application designating the United States of America, if the benefit of the filing date for the prior-filed application is to be claimed.

(e) An international application may also include in the Request a declaration of the inventors as provided for in PCT Rule 4.17(iv).

[43 FR 20466, May 11, 1978, as amended at 58 FR 4345, Jan. 14, 1993; 66 FR 16006, Mar. 22, 2001; 66 FR 67096, Dec. 28, 2001; 68 FR 14337, Mar. 25, 2003; 68 FR 59887, Oct. 20, 2003]

§ 1.435 The description.

(a) The application must meet the requirements as to the content and form of the description set forth in PCT Rules 5, 9, 10, and 11 and sections 204 and 208 of the Administrative Instructions.

(b) In international applications designating the United States the description must contain upon filing an indication of the best mode contemplated by the inventor for carrying out the claimed invention.

[43 FR 20466, May 11, 1978, as amended at 63 FR 29618, June 1, 1998]

§ 1.436 The claims.

The requirements as to the content and format of claims are set forth in PCT Art. 6 and PCT Rules 6, 9, 10 and 11 and shall be adhered to. The number of the claims shall be reasonable, considering the nature of the invention claimed.

§ 1.437 The drawings.

(a) Subject to paragraph (b) of this section, when drawings are necessary for the understanding of the invention, or are mentioned in the description, they must be part of an international application as originally filed in the United States Receiving Office in order to maintain the international filing date during the national stage (PCT Art. 7).

(b) Drawings missing from the application upon filing will be accepted if such drawings are received within 30 days of the date of first receipt of the incomplete papers. If the missing drawings are received within the 30-day period, the international filing date shall be the date on which such drawings are received. If such drawings are not timely received, all references to drawings in the international application shall be considered non-existent (PCT Art. 14(2), Administrative Instruction 310).

(c) The physical requirements for drawings are set forth in PCT Rule 11 and shall be adhered to.

§ 1.438 The abstract.

(a) Requirements as to the content and form of the abstract are set forth in PCT Rule 8, and shall be adhered to.

(b) Lack of an abstract upon filing of an international application will not affect the granting of a filing date. However, failure to furnish an abstract within one month from the date of the notification by the Receiving Office will result in the international application being declared withdrawn.

FEES

§ 1.445 International application filing, processing and search fees.

(a) The following fees and charges for international applications are established by the Director under the authority of 35 U.S.C. 376:

(1) A transmittal fee (see 35 U.S.C. 361(d) and PCT Rule 14)—\$300.00

(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16):

(i) If a corresponding prior United States national application under 35 U.S.C. 111(a) has been filed on or after December 8, 2004, the basic filing fee under § 1.16(a), search fee under § 1.16(k), and examination fee under § 1.16(o) have been paid therein, and the corresponding prior United States national application is identified by application number, if known, or if the application number is not known by the filing date, title, and name of applicant (and preferably the application docket number), in the international application or accompanying papers at the time of filing the international application—\$300.00.

(ii) If a corresponding prior United States national application under 35 U.S.C. 111(a) has been filed before December 8, 2004, the basic filing fee under § 1.16 has been paid therein, and the corresponding prior United States national application is identified by application number, if known, or if the application number is not known by the filing date, title, and name of applicant (and preferably the application docket number), in the international application or accompanying papers at the time of filing the international application—\$300.00.

(iii) For all situations not provided for in paragraphs (a)(2)(i) or (a)(2)(ii) of this section—\$1000.00.

(3) A supplemental search fee when required, per additional invention—\$1,000.00

(4) A fee equivalent to the transmittal fee in paragraph (a)(1) of this section for transmittal of an international application to the International Bureau for processing in its capacity as a Receiving Office (PCT Rule 19.4).